

REMARKS**1. Claim status**

Claims 1-4, 8-9, 15-18, 21-22, 26-30, 35-37 and 42-47 are pending. All claims were rejected as anticipated by a single reference or obvious in view of one or more references. Claims 1-4, 8-9, 15-18 and 21-22 were rejected under 35 USC § 102(b) by U.S. Patent 5,766,660 issued to Lee (hereinafter "*Lee*"). Claims 26-28 are rejected under 35 USC § 103(a) as being unpatentable over Lee. Claims 1-4 and 15-18 were rejected under 35 USC § 102(e) as being anticipated by U.S. Patent 6,825,046 issued to Forsyth (hereinafter "*Forsyth*"). Claims 26-27, 29-30, 35, 45, and 47 were rejected under 35 USC § 103(a) as being unpatentable over *Forsyth*. Claims 8-9, 15, 21-22, 28, 36-37, 42-43 and 46 were rejected under 35 USC § 103(a) as being unpatentable over *Forsyth* in view of U.S. Patent Publication 2002-01788797 for Pawliszyn (hereinafter "*Pawliszyn*").

2. Claim amendments

Claims 1, 8, 15, 16, 21, 29, 30, 36 and 45, the independent claims, have been amended to incorporate limitations from the specification and as depicted in the Figures to better define the invention.

3. The rejection of claims 1-4, 8-9, 15-18 and 21-22 as anticipated by *Lee* should be withdrawn

The rejection of claims 1-4, 8-9, 15-18 and 21-22 under 35 U.S.C. § 102(b) as being anticipated by *Lee* should be withdrawn as *Lee* does not disclose the limitation of the cap adapted to prevent communication therethrough from the chamber, found in the specification at page 6, lines 16-20 and present in independent claims 1, 8, 15, 16, and 21. "A claim is anticipated only if
5 each and every element as set forth in the claim is found, either expressly or inherently described,

in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). *Lee*, however, specifically requires a vent in the cap. See *Lee*, col. 2, lines 16-23; col. 3, lines 32-34 ("The cap 20 has a vent 22 to conduct air to the inner side of the cap to which a filter is attached to prevent odors from flowing out or harmful microorganisms from flowing in."). *Lee* does not include the limitation of a cap adapted to prevent communication therethrough from said chamber.

4. The rejection of 26-28 as unpatentable over *Lee* should be withdrawn

The rejection of claims 26-28 under 35 U.S.C. § 103(a) as unpatentable over *Lee* should be withdrawn as *Lee* does not disclose the limitation of the cap adapted to prevent communication therethrough from the chamber, found in the specification at page 6, lines 16-20 and present in independent claim 26 and instead teaches away from the limitation. *Lee*, instead specifically requires a vent in the cap. See *Lee*, col. 2, lines 16-23; col. 3, lines 32-34 ("The cap 20 has a vent 22 to conduct air to the inner side of the cap to which a filter is attached to prevent odors from flowing out or harmful microorganisms from flowing in."). Thus, whether it would have been obvious to make the cap of *Lee* a stopper-type, as suggested by the Examiner, is not relevant as *Lee* teaches away from the cap of the present invention present in claims 26-28.

5. The rejection of claims 1-4 and 15-18 under 35 USC § 102(e) as being anticipated by *Forsyth* should be withdrawn.

The rejection of claims 1-4 and 15-18 under 35 U.S.C. § 102(e) as being anticipated by *Forsyth* should be withdrawn as *Forsyth* does not disclose the limitation of the particulate coating applied to a top cover interior surface immovably fixed within the cap - where the cap is bounded by a top cover exterior surface and a sidewall, and the top cover interior surface is a part of the

top cover, supported by the specification at page 5, line 32 - page 6, line 1 and the top cover is immovable and fixed to the cap as depicted in Figures 1, 3, 4A, 4B, 4C, 4D, and present in claims 1-4 and 15-18. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). *Forsyth*, however, specifically requires the limitation of a stainless steel tubing 3, which acts as a shield, to be mounted over support 1A, so that the fiber may be pulled up through the silicone septum, until the fiber coating is inside the stainless steel sleeve 3, whereby the extracted analytes are shielded from volatilizing into the atmosphere. *Forsyth*, Col. 3, lines 20-27. *Forsyth* does not include the limitation of the particulate coating applied to a top cover interior surface immovably fixed within the cap.

6. The rejection of claims 26-27, 29-30, 35, 45, and 47 under 35 USC § 103(a) as being unpatentable over *Forsyth* should be withdrawn.

The rejection of claims 26-27, 29-30, 35, 45, and 47 under 35 U.S.C. § 103(a) as being unpatentable by *Forsyth* should be withdrawn as *Forsyth* does not include the limitation of the particulate coating applied to a top cover interior surface immovably fixed within the cap - where the cap is bounded by a top cover exterior surface and a sidewall, and the top cover interior surface is a part of the top cover, supported by the specification at page 5, line 32 - page 6, line 1 and the top cover is immovable as depicted in Figures 1, 3, 4A, 4B, 4C, 4D, and present in claims 26-27, 29-30, 35, 45, and 47. *Forsyth*, instead specifically requires the fiber 1A with the coating 2 be capable of being pulled up through the silicone septum, until the fiber coating is inside the stainless steel sleeve 3, whereby the extracted analytes are shielded from volatilizing into the atmosphere. *Forsyth*, Col. 3, lines 20-27. Thus, *Forsyth* teaches away from the particulate coating being applied to a top cover interior surface immovably fixed within the cap.

7. The rejection of claims 8-9, 15, 21-22, 28, 36-37, 42-44 and 46 under 35 USC §103(a) as being unpatentable over *Forsyth* in view of *Pawliszyn* should be withdrawn.

The rejection of claims 8-9, 15, 21-22, 28, 36-37, 42-44 and 46 under 35 U.S.C. § 103(a) as being unpatentable by *Forsyth* in view of *Pawliszyn* should be withdrawn as *Forsyth* teaches away from the particulate coating being applied to a top cover interior surface immovably fixed within the cap as identified in Section 6 above.

8. Conclusion

In light of the foregoing, the pending claims are patentable over the cited art as the art and proposed combinations each lack an element of the pending claims. Applicant requests the issuance of a notice of allowability.